Ordinance. So far as I have been able to comprehend those paragraphs it does not appear to me that they have any bearing on the question before me.

I do not attach any particular weight to the point that under section 923 of the Code the Official Assignee is expressly exempted from giving the usual security required from an administrator. The Official Assignee is always an officer of Government and it may be that the Legislature regarded it as improbable that Government would ever allow the estate of a deceased person to suffer by reason of maladministration on the part of one of its officers.

Mr. Smith who appeared for Mr. Colman argued, in supporting the Official Assignee's contention, that in considering the question raised in this Summons considerable weight should be given to the fact that for many years it has been the practice in the Bankruptcy Office for successive Official Assignees, without obtaining fresh grants, to carry on the administration of estates of deceased persons, and he suggested that the Legislature in enacting section 4 (f) of the Interpretation Ordinance must be taken to have acquiesced in that practice. I am not impressed with this argument in its application to the position here. I see no sufficient reason for imputing to the Legislature a knowledge of the practice in the Bankruptcy Office. And if the practice is based on an erroneous construction of the law there is no principle (as Lord Macnaghten said in *Hamilton* v. *Baker*, 14 A.C. at p. 222) which precludes the Courts from correcting the error.

It may be, of course, that the Legislature *did* intend that grants issued to Official Assignees under section 857 of the Code should pass automatically to successors in office. Possibly the fact that the Official Assignee was not a corporation sole was overlooked. But in construing a statute, where the language is plain and unambiguous, the meaning and intention of the statute must be collected from the language used. Where the language is clear, a Court is not at liberty to speculate on the intention of the Legislature or to construe the language of the statute according to its own notions of what ought to have been enacted, (See Judgment of the Court in *The York and North Midland Railway Company* v. *The Queen*, 22 L.J.Q.B. at 230). And in *Salomon* v. *Salomon*, (1897) A. C. at p. 38, Lord Watson said :—

> "'Intention of the Legislature' is a common but very slippery phrase, which, popularly understood, may signify anything from intention embodied in positive enactment to speculative opinion as to what the Legislature probably would have meant, although there has been an omission to enact it. In a Court of Law or Equity, what the Legislature intended to be done or not to be done can only be legitimately ascertained from that which it has chosen to enact, either in express words or by reasonable and necessary implication."

Applying these principles to the present case I can find nothing in the language of the Civil Procedure Code or of the Interpretation Ordinance which would justify me in holding that a grant of letters of administration to the Official Assignee under section 857 of the Code passes automatically to his successors in office. I am therefore compelled to hold that under the Order of Court of the 28th November, 1927, Mr. Colman has always been and still is the administrator of the estate of Chew Joo Chiat deceased.

In accordance with the agreement arrived at at the conclusion of the argument Mr. Wilson, Mr. Worley and Mr. Williams, who have acted or officiated as Official Assignee since the retirement of Mr. Colman, will be declared not liable to be charged in respect of any act committed by any of them as executor *de son tort*.

Mr. Smith will receive $250 costs out of the estate of the deceased.

Order Accordingly.

Solicitors for the Plaintiff—*Chan & Eber.*

Solicitors for the Defendant—

Donaldson & Burkinshaw.

(ORIGINAL CIVIL JURISDICTION)

TERRELL, J.

February 26, 1935.

KIM SENG LAND COMPANY LIMITED

v.

THE RURAL BOARD, SINGAPORE.

(SINGAPORE RATING APPEAL No. 4 of 1934).

Ordinance No. 135 (Municipal) S. 3—definition of "annual value"—method of assessing large areas of vacant land.

When a large area of land is assessed under the Municipal Ordinance for the purpose of payment of rates, the valuation by the assessing authority should indicate, at least, roughly, the different areas assessed and the different valuations placed on such areas. In the case of a large estate, an overall valuation which fails to distinguish the actual areas assessed and the different valuations placed on such areas, of the method by which the assessing authority arrived at the conclusions, is not a proper assessment. *Semble.* In the definition of "annual value" in S. 3 of Ordinance No. 135 (Municipal) and in the second proviso thereto, the words relating to land "capable of being developed for building purposes" mean capable of being so developed at a cost not disproportionate to the value of the lands or of any building that might be erected on it.

Appeal under S. 66 of Ordinance No. 135 (Municipal) from an assessment by the Rural Board, Singapore.

The facts and grounds of appeal are sufficiently set out in the Judgment.

Sir Arnold Robinson and *John Laycock* for Appellants. Section 58 of the Municipal Ordinance provides in Sub-section 1 (a) for the assessment of property on its 'annual value' of which expression section 3 provides the interpretation, the relevant words in this appeal being:—"suitable for building purposes or capable of being developed for such purposes."

"Suitable for building purposes" means land in a condition to be built on with little or no preparation. "Capable of being developed for building purposes" means land, the surface of which can be rendered suitable for building, both expressions however being subject to the land being in immediate demand for building purposes. (*Frankel* v. *Chairman of the Singapore Rural Board*, 4 Mal.L.J. 135).

The section deals with assessing the annual value i.e. in the year for which the assessment is made. This principle applies equally to all property which becomes subject to the section. Vacant land does not differ in this respect from other property which is let and whose annual value can be directly ascertained. Houses which perforce are vacant through lack of demand get a refund of assessment (section 58A). The annual value of vacant land, therefore, although ascertained by reference to capital value, must be a value which in the year of assessment can be obtained from the land by building on it and has nothing to do with ascertaining its potential building value in the future, such as must be taken into account when assessing the capital value for compulsory acquisition. Land, such as this, most of which is not accessible by roads, has no water or light within reach and for which there is no immediate demand for the purpose of building houses on it, is not within the meaning of the words (quoted above) in section 3.

The section was obviously aimed at landowners who were deliberately holding land off the market for unearned increment where there is a present demand for building needed houses thereon. One test of such a demand would be whether the land could be sold subject to a condition that a building should be immediately erected thereon. The evidence negatives any demand for any of this land for immediate building.

As regards identification of the land, the appellants are entitled to know which part of their land is assessed and which is not, in such manner, not necessarily by means of a detailed survey, but at least by a demarcation, as to enable them to go to any part of this large area of 1232 acres and know whether it is assessed or not. The Rural Board have not done this but have made round figure deductions on paper from a much larger area for rubber land, swamps and ravines without any indication of the position or limits of the deducted areas; and it is not possible for the owners themselves to go to their land and demarcate the limits of the parts assessed.

H. D. Mundell for the Respondent.

TERRELL, J.—The appellants, Kim Seng Land Company Limited, are the owners of 2454 acres 2 roods 19 poles, being land marked on the Government resurvey map as Lots 59^{10} 59^{23} and 59^{25} of Mukim III, Singapore. The area is not within the Municipal limits but has been "defined" with the sanction of the Governor-in-Council as an area within the Rural Board limits within which land "suitable for building purposes or capable of being developed for such purposes" is assessable.

By a notice dated the 4th October, 1934, Kim Seng Land Company were informed that the rate assessed on the land in question, including Education Rate, was $4,500, and by the said notice the Rural Board stated that they would revise the valuation on the 12th December, 1934, and would hear appeals. The Kim Seng Land Company objected to the assessment though they do not appear to have put their objections in writing. Their objections were heard by the Rural Board on the 12th and 13th December when the basis of the assessment was explained by the Chairman. After stating the total area as 2454 acres 2 r. 19 p. he proceeded:—

> "From this a comparatively large amount has been deducted as allowance for any ravines, swamps, etc., and the deduction includes the 600 acres of rubber land given by the Company themselves at a recent inquiry as their rubber area and it also includes the approximately 3 acres known as Lot 270.
>
> "The balance assessed for the present purpose is 1,500 acres.
>
> "The value is taken, over all, at $1,000 per acre = $1,500,000.
>
> "Annual value at 5% (see sec. 3) is therefore $75,000.
>
> "The rate, amount to be paid, is, 5% on that = $3,750 plus Education Rate $750 = $4,500."

After hearing the objections on behalf of the Kim Seng Land Company the Chairman published the Conclusion of the Rural Board on the 14th December, 1934.

The effect of this is to divide the 1,500 acres into two lots:

(1) as suitable for building purposes;
(2) as capable of being developed for such purposes.

Under (1) came (a) the Buona Vista Road area, 142 acres valued at $1,500 an acre, and (b) the Ridout Road area, 126 acres valued at $2,000 an acre; total 268 acres on which the rate payable was $1,395.

Under (2) came the difference between 1,500 acres and 268 acres = 1,232 acres. The Conclusion proceeds:—

> "Not to be severe, the Rural Board will of the various figures to hand adopt the basis of $600 per acre, approximately that reported by the Company as above to be the rate of the Military counter offer. Further the Rural Board is willing to accept the view that this land, though capable of building development, is not at this exact moment suitable for immediate building, and therefore to halve the rate of $600.
>
> 1,232 acres @ $300 an acre = $369,600 = capital value
>
> 2½% of that (sec.3) = $9,240.00 = annual value
>
> 5% of that = $ 462.00
> Add Ed. Rate 92.40
>
> $ 554.40 = rate to be paid.
>
> Grand total of rate to be paid: $1,395.00 and $554.40 = $1,949.40. The Rural Board in making this assessment have deliberately been very lenient:—
>
> "A net area of 1,500 has been assessed, the total area of the estate being
>
> | a | r | p |
> |---|---|---|
> | 2454 | 2 | 19 |
>
> "Present value has been taken, and the value 'in average years' has not been insisted on.
>
> "The value of (2) has been taken from the lowest of figures presented, and even that has been halved."

In their original objection on the 12th December, 1934, the appellants objected that they did not know where the 1,500 acres were. It will be seen that in the "Conclusion" this objection was partially met, the two areas known as Buona Vista Road and Ridout Road areas being well defined and indicated on the map, Exhibit B, which was put in evidence. The appellants have not appealed against the assessment on these areas, but they appeal against the assessment on the 1,232 acres on two grounds:—Firstly that the 1,232 acres are not capable of being developed for building purposes within the meaning of section 3 of Ordinance No. 135 (Municipal); and secondly, that such assessment was wrongly made and is of no effect because the area is not identified by demarcation or otherwise and it is impossible for the appellants to ascertain what parts of the total area are or are intended to be assessed.

It will be seen, therefore, that on the appeal to the Supreme Court the appellants reiterate the objection which they originally made to the assessment as a whole and the validity of which in their revised assessment the Rural Board appear to have recognized at all events in part.

Now, Ordinance No. 135 (Municipal), unlike the Rating Acts in England, gives no indication of the kind of objections which may be raised before the Rural Board on the revision of the assessment (section 60), or before the Supreme Court on an appeal from the Rural Board's decision (section 66). Section 66(2), however, provides that appeals shall be brought in the way, as near as circumstances admit, in which appeals are brought before the Quarter Sessions in England. It would appear that in England no ground of appeal will be entertained at Quarter Sessions which has not previously been the subject of an objection before the Assessment Committee. If by virtue of section 66(2) that rule applies here, I hold that both the grounds of appeal before the Supreme Court were sufficiently raised on the hearing of the objection before the Rural Board. As regards what matters can be raised as a ground of objection the question can only be decided on general principles. In England such grounds are specified rather vaguely in section 26(1) of the Rating and Valuation Act, 1925. The sub-section reads:

> "Any person...aggrieved by the incorrectness or unfairness of any matter in the draft (valuation) list, or by the insertion therein or omission therefrom of any matter, or by the valuation of a single hereditament of a building or a portion of a building occupied in parts, or otherwise with respect to the list, may lodge an objection etc."

The possible grounds of objection are left very wide, but it is noticeable that one ground may be the valuation as a single hereditament of a building occupied in parts. The sub-section has of course no application here and I only quote it as an indication that if portions of an assessable area are of varying value the person who is assessed can object to a lump sum assessment over the whole area. It appears to me that it is an elementary principle of justice that a person who is taxed should be informed not only of the particular property in respect of which he is taxed, but the actual value put on different portions of his property where such portions vary as regards access and general suitability for development.

Now, applying these principles to the 1,232 acres that have been assessed in this case, I find from plan A, which is the Government re-survey map, and from plan B, which is based on such

map and specifies the Ridout Road and Buona Vista Road areas, that the eastern end of the area is within reasonable proximity of the town of Singapore, whereas the western end is several miles distant, that although the area is intersected by certain Government roads there are no access roads and that at the western end in particular some of the land is three quarters of a mile distant from any road, and highly inaccessible. Whatever valuation, therefore, the Rural Board put on the 1,232 acres it is quite impossible that the whole of this area can have the same value. I do not say that an accurate survey was necessary, but the valuation should at least have distinguished roughly, by pegs in the ground or otherwise, the actual areas assessed and the different valuations placed on such areas.

But that is only one of the appellants' objections. Their chief objection is that they do not know what land the 1,232 acres, out of some 2,200 acres (excluding the Ridout Road and Buona Vista Road areas), comprise. I was at first inclined to think that this objection had little merit, as the Rural Board had made an apparently generous allowance for ravines, swamps and for a rubber estate of 600 acres. As however the case proceeded it became evident that the objection was substantial.

On the cross-examination of Mr. Atkin Berry who was advising the appellants and had prepared Plan B, Mr. Mundell put to him another plan Exhibit 1, which had been prepared by the Land Office and which he undertook to prove later. Mr. Mundell stated that this plan had not been produced at the inquiry before the Rural Board but that he was instructed that it was the basis upon which the Rural Board's figures had been prepared. Exhibit 1 shows the Ridout Road area, 127 acres separately. Apart from that a large area, which includes the Buona Vista Road area, is indicated by a hatched blue line. A schedule, Exhibit 1a, accompanied this plan and states that the area within the blue line is 1,605.20 acres. Deducting from this the Buona Vista Road area 142 acres and 88 acres for swamps, there would remain about 1,375 acres i.e. nearly 150 acres more than the 1,232 acres for which the appellants have been assessed. Mr. Atkin Berry questioned the accuracy of this plan as not indicating swamps and ravines in various places, but never having seen the plan before, was not of course in a position to criticize it in detail. When, however, the witnesses to prove the plan were called from the Land Office, it became apparent that Mr. Mundell had been entirely misinstructed. No orders for making Exhibit 1 were given until the appellants had filed their notice of appeal to the Supreme Court. It cannot possibly therefore have been the basis upon which the Rural Board assessed the 1,232 acres. There was, however, a further and far graver objection. When Messrs. Wee Gondol and Simmonds were called from the Land Office it became evident that the rubber estate, or at all events 90% of it, instead of being excluded from the area hatched blue, as stated by Mr. Ebden, the Chairman of the Rural Board, was actually included within it. The result, therefore, was that only some 850 acres of assessable land were shown instead of 1,232 acres. Exhibit 1 was in fact an after thought, an attempt to give the appellants *ex post facto* the particulars for which they had always pressed, and in the result the Rural Board have entirely failed to show what land was assessed, at what value different areas were assessed, or the method by which they arrived at their conclusions.

On these grounds I find accordingly that the assessment cannot stand and must be set aside.

In view of these conclusions it is not really necessary for me to consider the first ground of appeal, namely that the 1,232 acres were not "capable of being developed for building purposes." I find it for the reasons stated above quite impossible to consider the area as a whole. The definition of these words was considered by Sir Walter Shaw in Rating Appeal No. 8 of 1922 and he suggested that in their widest sense the words would embrace practically all land in the Colony not covered with water and that so extensive a meaning could hardly be given to them. The definition could not, however, embrace land anywhere in Singapore as land is not assessable unless it is a defined area. On the other hand, the Ordinance does not say that all land in a defined area is assessable. If it is not suitable for building purposes, it must at least be capable of being developed for such purposes. I think that the latter words must mean capable of being developed at a cost not disproportionate to the value of the land or of any building that might be erected on it. To take an extreme case, if a long access road were necessary, it would not be a practicable proposition to build a house costing $10,000 if the access road were to cost $75,000. If, on the other hand, a hundred of such houses could reasonably be built, it would be a different proposition. On the material before me and reading the definition with the qualification suggested above, I am quite unable to say whether any part of the area outside the Ridout Road and Buona Vista Road areas is assessable or not. I need only remark that if an area is assessable and if a certain value is put upon it, the Rural Board are not justified by anything in the Ordinance in dividing such value by half. This is however what the Rural Board did in the present case, and it appears to imply a want of confidence in the conclusions at which they had arrived.

Appeal allowed.

Solicitors for Appellants: *Drew & Napier.*

Solicitors for Respondent: *Sisson & Delay.*

END OF THE STRAITS SETTLEMENTS OFFICIAL REPORTS.